UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,772	08/02/2004	Arthur G. Rodgers	04-0558	4771

24319   7590   04/25/2007
LSI LOGIC CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS, CA 95035

EXAMINER
DWIVEDI, MAHESH H

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
04/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***		10/710,772	RODGERS ET AL.
		Examiner	Art Unit	
		Mahesh H. Dwivedi	2168	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>08 April 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-20*.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

TIM VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Mahesh Dwivedi
Patent Examiner, AU 2168
04/18/2007

U.S. Patent and Trademark Office
PTOL-303 (Rev. 08-06)
Advisory Action Before the Filing of an Appeal Brief
Part of Paper No. 20070418

Continuation of 11. does NOT place the application in condition for allowance because: Applicants request for reconsideration filed on 04/08/2007 has been considered, but is not persuasive. Applicants argue on pages 2-3 that "preventing any queue items that have a same corresponding output port as the particular one of the plurality of output queues and that have a queue item priority greater than or equal to the queue priority of the particular one of the plurality of output queues from exiting the input queue is neither taught nor suggested by the cited references" and "Applicant's independent claims recite specific criteria utilized by the claimed invention to select which packets would not exit the input queue, namely that the packets have a priority greater than or equal to the queue priority of their destination output queue, In contrast, Nakayama, even where it teaches suppressing all packets (regardless of priority), applies the opposite criterion, that the priority is less than a particular amount". However, the examiner wishes to point to pages 23-26 of the final office action mailed on 02/15/2007 to address these issues. Moreover, the examiner wishes to state that the independent claims merely recite the limitation "in response to a determination that the particular one of the plurality of output queues contains a number of queue items that meets or exceeds the predetermined amount, preventing any queue items that have a same corresponding output port as the particular one of the plurality of output queues and that have a queue item priority greater than or equal to the queue priority of the particular one of the plurality of output queues from exiting the input queue is neither taught nor suggested by the cited references". Furthermore, the examiner further wishes to state that Nakayama clearly teaches responding to a number queues exceeding a predetermined amount (see "the quantity of stored cells destined for a specified output port exceeds a predetermined threshold value within the switch, the input line interfaces sending the cells destined for the specified output port selectively inhibits the forwarding or sending out of cells according to the order of priority of the cells in response to the notice of congestion informed to each of the input line interfaces from the congestion notifier 4 by way of the signal line 19" (Column 4, lines 54-62). Moreover, the examiner further wishes to state that a result of the determination is the blocking of all packets (including those above the priority) (see "upon reaching a second threshold value Th2, the high priority cells destined for the specified output port is also prohibited from flowing into the switching unit 3" (Column 5, lines 2-5). The examiner further wishes to state that Nakayama's method clearly blocks those packets with a higher priority once a determination is made that the number of input queues exceeds a predetermined amount, as is claimed in the independent claims. Applicants argue on page 5 that "Erimli does not teach or suggest the limitation of preventing packets having a priority greater than or equal to the output queue's priority". However, the examiner wishes to point to pages 26-27 of the final office action mailed on 02/15/2007 to address these issues. Therefore, Erimli teaches the aforementioned limitation.